

SERVICE DATE – LATE RELEASE JULY 7, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-397 (Sub-No. 1X)

TULARE VALLEY RAILROAD COMPANY—ABANDONMENT  
EXEMPTION—IN KINGS AND TULARE COUNTIES, CA

Decided: July 7, 2006

By decision served March 24, 1994, the Interstate Commerce Commission granted Tulare Valley Railroad (TVR) an exemption under 49 U.S.C. 10505 [now 49 U.S.C. 10502] from the prior approval requirements of 49 U.S.C. 10903-04 to abandon 29.5 miles of rail line: (1) between milepost 0.3 at Corcoran and milepost 15.1 at Tulare, and (2) between milepost 23.8 at Visalia and milepost 38.5 at Cutler, in Kings and Tulare Counties, CA. The exemption became effective on April 23, 1994, subject to employee protective conditions. On May 3, 1994, a decision and notice of interim trail use or abandonment (NITU) was served that reopened the proceeding to implement interim trail use/rail banking under 49 CFR 1152.29 and provided a 180-day period for TVR to negotiate an agreement with American Trails Association (ATA). On April 20, 1995, ATA notified the Board that an interim trail use/rail banking agreement had been timely reached. On April 22, 1997, ATA filed a request for partial vacation of the NITU served May 3, 1994. By decision served May 14, 1997, the NITU was modified and vacated with respect to the line segment between milepost 0.3 at Corcoran and milepost 12+5055 at the west side of Inyo Avenue in Tulare, in Kings and Tulare Counties, CA, a distance of 12 miles. On January 28, 1998, ATA filed a notice of intent to terminate trail use for the right-of-way between milepost 38.5 at Cutler and milepost 27+4200 at Visalia, a distance of approximately 11 miles in Tulare County, CA. By decision served February 6, 1998, the proceeding was reopened and the NITU was vacated with respect to the line segment between milepost 38.5 at Cutler and milepost 27+4200 at Visalia, effective February 13, 1998, as requested.<sup>1</sup>

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<sup>1</sup> On April 22, 1998, the City of Tulare, which had been authorized by decision served December 19, 1997, to replace ATA as the trail user between milepost 12+5055 and milepost 15.1, requested that the Board vacate the NITU with respect to the line segment between a point approximately 1,051.06 feet westerly of milepost 15 and a point approximately 1,999.6 feet easterly of milepost 15 in Tulare. By decision served June 15, 1998, the request was granted.

In a joint motion filed June 5, 2006, ATA and the City of Visalia (Visalia) request substitution of Visalia as the new interim trail user and termination of ATA as the interim trail user for the portion of the right-of-way between milepost 23.8 and milepost 27+4200 at Visalia, a distance of approximately three and a half miles. Visalia has submitted a statement of willingness to assume full financial responsibility for the management of, for any legal liability arising out of the transfer or use, of, and for the payment of any and all taxes that may be levied or assessed against the right-of-way as required at 49 CFR 1152.29(f), and acknowledges that the use of the right-of-way for trail purposes is subject to future reactivation for rail services.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Visalia is authorized to replace ATA as the new trail user over the segment between milepost 23.8 and milepost 27+4200 at Visalia.
3. The new trail user is required to assume, for the term of the agreement, full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against, the right-of-way.
4. Interim trail use/rail banking is subject to the future restoration of rail service and to the new user's continuing to meet the financial obligation for the right-of-way.
5. If the new trail user intends to terminate trail use, it must send the Board a copy of this decision and notice and request that it be vacated on a specified dated.
6. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary